

Application Serial No: 09/780,367  
In reply to Office Action of 18 October 2004

Attorney Docket No. 79476

REMARKS / ARGUMENTS

Claims 1-22 are currently pending in the application. No claims are allowed. Claims 1-22 are rejected. Claims 1, 5, 7, 8, 14 and 15 are amended by the current action.

The Examiner has rejected claims 1-7 and 14-22 under 35 U.S.C. § 112, first paragraph, contending that the specification, while being enabling for "countermeasure threats", does not reasonably provide enablement for "foreign countermeasure threats". The Examiner found that the specification does not describe what a "foreign" countermeasure threat entails, let alone any examples of such "foreign" countermeasure threats. Further, the Examiner provided that it is not disclosed in the specification, how a "foreign" countermeasure differentiates from a "non-foreign or United States" countermeasure threat.

The Examiner has rejected claims 1-7 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that the preamble of claim 1 specifies a method for testing; however, he found that it is unclear what the method is testing for.

The Examiner has objected to claims 8-14 stating that claim 8, lines 4-6, appear to have words missing and thus are

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grammatically lacking. The Examiner required appropriate correction is required.

The Examiner has rejected claims 8-13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-15 of Dutton et al. (reference A: U.S. of Patent No. 6,341,101) in view of Kendig et al. (reference B: U.S. Patent No. 4,192,245) contending that the '101 patent to Dutton et al, in claim 9, specifies a launchable acoustic countermeasure device that includes all the elements claimed in the programmable countermeasure threat emulation system of instant claim 8 except for the "power supply." The Examiner found that Kendig et al. teaches that launchable torpedos commonly include a power supply. The Examiner determined that it would have been obvious to one of ordinary skill in the art to include a power supply within the launchable countermeasure of Dutton et al. so as to provide for a torpedo countermeasure system that is self-powered.

The Examiner found that dependent claims 9-13 are further provided by similar structure of claims 10-15 of Dutton et al.

These rejections and objections are respectfully traversed in view of these amendments and remarks.

Concerning the Examiner's § 112 rejection of claims 1-7 and 14-22, Applicants have amended the claims to remove "foreign" every place it appears. It is suggested that the subject

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invention is capable of emulating both foreign and domestic countermeasures, so the limitation to foreign is unnecessary.

Concerning the Examiner's § 112 rejection of claims 1-7 based on the preamble, Applicants have amended the preamble. As amended, the preamble specifies that the method tests the function of a torpedo. An additional step was added for determining the function of the torpedo. This is supported at numerous places in the specification. Applicants respectfully suggest that claims 1-7 and 15-22 should now be allowable as amended.

Concerning the Examiner's objection to claims 8-14 and double patenting rejection of these claims, Applicants have corrected claim 8 in such a way as to distinguish the Applicants' prior invention. Applicants have amended claim 8 to more clearly indicate that the power supply has controls that allow selection between remote operation and connected operation. This feature is not shown in Applicants' prior invention. Kendig et al. do not show a power supply having such controls. Because Kendig et al. do not show these features or render them obvious, Applicants suggest that claims 8-14 should be allowable without submission of a terminal disclaimer.

Applicants believe that, as amended, the application is in condition for allowance. Reconsideration and allowance of the application is earnestly solicited.

Application Serial No: 09/780,367  
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Attorney Docket No. 79476

The Examiner is invited to telephone James M. Kasischke, Attorney for Applicants, at 401-832-4736 if, in the opinion of the Examiner, such a telephone call would serve to expedite the prosecution of the subject patent application.

Respectfully submitted,  
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